

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re application of:**

Santosh Misra and William W. Kay

**Application No.** 10/719,623

**Filed:** November 20, 2003

**Confirmation No.** 3643

**For:** TRANSGENIC PLANTS EXPRESSING  
TEMPORIN PEPTIDES

**Examiner:** David H. Kruse

**Art Unit:** 1638

**Attorney Reference No.** 7390-67324-01

CERTIFICATE OF MAILING

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP 16, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 on the date shown below.

Attorney or Agent  
for Applicant(s)

Date Mailed February 7, 2006

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ALEXANDRIA, VA 22313-1450

**SECOND REQUEST FOR REFUND**  
**(37 C.F.R. § 1.26(a))**

Applicants submitted a Request for Refund (37 C.F.R. § 1.26(a)) to the U.S. Patent and Trademark Office on February 16, 2005. A copy of the Request is enclosed. To date, a refund has not been received.

Applicants hereby request a refund of \$180.00 for an Information Disclosure Statement (IDS) fee charged to Deposit Account 02-4550.

Applicants submitted an IDS pursuant to 37 C.F.R. § 1.197(b)(3) (Exhibit A) to the Patent Office on November 3, 2004. The IDS contained the following statement:

Applicants filed this Information Disclosure Statement ("IDS") before the mailing date of a first Office action on the merits. As a result, no fee should be required to file this IDS. However, if the Patent Office determines that a fee is required for Applicants to file this IDS, please charge any such fees, or credit overpayment, to Deposit Account No. 02-4550. A duplicate copy of this Information Disclosure Statement is enclosed.

Adjustment date: 03/13/2006 SFELEKE1  
01/10/2005 WPHILLIP 00000020 024550 10719623  
01 FC:1806 180.00 CR

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As of the date of November 3, 2004 mailing of the IDS, a first Office action on the merits had not been issued by the Patent Office. Thus, no fee was required to file the IDS and the \$180.00 IDS fee should not have been charged to our Deposit Account by the Patent Office.

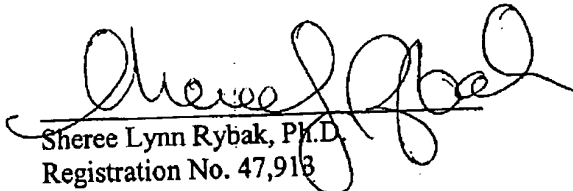
A Monthly Statement of Deposit Account (**Exhibit B**) of January 2005 indicates that fees totaling \$180.00 were charged to Deposit Account No. 02-4550 on January 10, 2005.

Please mail the refund to the undersigned attorney, or credit the refund to our Deposit Account No. 02-4550. A copy of this document is enclosed.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

By

  
Sheree Lynn Rybak, Ph.D.  
Registration No. 47,913

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Santosh Misra and William W. Kay

Application No. 10/719,623

Filed: November 20, 2003

Confirmation No. 3643

For: TRANSGENIC PLANTS THAT ARE  
RESISTANT TO A BROAD SPECTRUM  
OF PATHOGENS

Examiner: David H. Kruse

Art Unit: 1638

Attorney Reference No. 7013-67324-01

**CERTIFICATE OF MAILING**

I hereby certify that this paper and the documents referred to as being attached or enclosed herewith are being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: MAIL STOP AMENDMENT, COMMISSIONER FOR PATENTS, P.O. BOX 1450, ALEXANDRIA, VA 22313-1450 on the date shown below.

Attorney  
for Applicant(s)

Date Mailed November 3, 2004

**INFORMATION DISCLOSURE STATEMENT  
PURSUANT TO 37 C.F.R. § 1.97(b)(3)**

MAIL STOP AMENDMENT  
COMMISSIONER FOR PATENTS  
P.O. BOX 1450  
ALEXANDRIA, VA 22313-1450

Listed on the accompanying form PTO-1449 and enclosed herewith are several English-language documents. Applicants respectfully request that these documents be listed as references cited on the issued patent.

Applicants filed this Information Disclosure Statement ("IDS") before the mailing date of a first Office action on the merits. As a result, no fee should be required to file this IDS. However, if the Patent Office determines that a fee is required for Applicants to file this IDS, please charge any such fees, or credit overpayment, to Deposit Account No. 02-4550. A duplicate copy of this Information Disclosure Statement is enclosed.

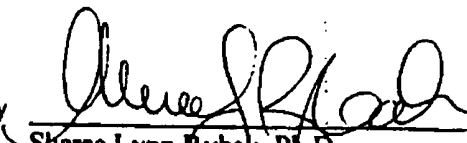
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The filing of this IDS shall not be construed to be an admission that the information cited in the statement is, or is considered to be, prior art or otherwise material to patentability as defined in 37 C.F.R. §1.56.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

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cc: Docketing

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# INFORMATION DISCLOSURE STATEMENT BY APPLICANT

Attorney Docket Number	7013-67324-01
Application Number	10/719,623
Filing Date	November 20, 2003
First Named Inventor	Misra
Art Unit	1638
Examiner Name	David H. Kruse

## U.S. PATENT DOCUMENTS

NOTE: If this application was filed after June 30, 2003, copies of United States patents and United States published patent applications do not have to be provided to the Patent Office. This requirement of 37 C.F.R. § 1.98(a)(2)(i) has been waived by the United States Patent and Trademark Office pursuant to the Official Gazette Notice on August 5, 2003 (1276 OG 55).

Examiner's Initials*	Cite No. (optional)	Number	Publication Date	Name of Applicant or Patentee
		6,025,326	2/15/2000	Steinberg et al.

## FOREIGN PATENT DOCUMENTS

Examiner's Initials*	Cite No. (optional)	Country	Number	Publication Date	Name of Applicant or Patentee

## OTHER DOCUMENTS

Examiner's Initials*	Cite No. (optional)	
		Hightower et al., "The Expression of Cecropin Peptide in Transgenic Tobacco Does Not Confer Resistance to <i>Pseudomonas syringae</i> pv <i>tabaci</i> ," <i>Plant Cell Rep.</i> 13:295-299 (1994).
		Pang et al., "Expression of a Gene Encoding a Scorpion Insectotoxin Peptide in Yeast, Bacteria and Plants," <i>Gene</i> 116:165-172 (1992).

EXAMINER  
SIGNATURE:

DATE  
CONSIDERED:

\* Examiner: Initial if reference considered, whether or not in conformance with MPEP 609. Draw line through cite if not in conformance and not considered. Include copy of this form with next communication to applicant.



United States  
Patent and  
Trademark Office



**Deposit Account Statement**

Requested Statement Month: January 2005  
Deposit Account Number: 024550  
Name: KLARQUIST SPARKMAN CAMPBELL LEIGH & WHINST  
Attention: ACCOUNTING  
Address: 121 SW SALMON  
City: PORTLAND  
State: OR  
Zip: 97204

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
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<https://ramps.uspto.gov/eram/Controller.jsessionid=ramps.uspto.gov-3e9be:42123012:915789bd72b050dc> 2/15/2005

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## Deposit Account Statement

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